

## § 173.1

**AUTHORITY:** The United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1461, *et seq.*); Section 1078 of the National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112-239.

**SOURCE:** 79 FR 22017, Apr. 21, 2014, unless otherwise noted.

### § 173.1 Purpose and scope.

This part contains the rules that the Department follows for responding to requests for the release within the United States of public diplomacy program material generated pursuant to the U.S. Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431, *et seq.*; “the Smith-Mundt Act”). It is the Department’s policy to make its program material available on its public Web site or via third-party platforms whenever doing so is consistent with the Department’s mission and all statutory authorities, prohibitions, contractual obligations, principles, and standards. Requests for program material that is not available on the Department’s public Web site or via third-party platforms must be submitted under the Freedom of Information Act (the “FOIA”) pursuant to the FOIA provisions of 22 CFR part 171, subpart B.

### § 173.2 Definitions.

For the purposes of this part,

(a) *Program material* shall mean information about the United States, its people and policies, intended for foreign audiences abroad, that the Department prepares or assists in preparing using public diplomacy funds and disseminates to foreign audiences outside of the United States pursuant to the Smith-Mundt Act and Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a), as amended. Program Material includes, but is not limited to, electronic journals, pamphlets, books, maps, posters, videos, presentations, photos, games, curricula and other teaching materials, and certain social media and web-based interactive technology content produced in Washington, DC, as well as such materials and content produced at U.S. embassies abroad.

(b) *Request* shall mean any attempt to access the Department’s Program

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Material, including through the Department’s public Web sites and third-party platforms, or through a direct inquiry to a Department official in connection with a speech or other engagement.

(c) *Requester* shall mean any private person or entity that requests that the Department make Program Material available within the United States.

### § 173.3 Availability of program material.

(a) The Department makes Program Material available to Requesters electronically through Department Web sites and/or various third-party platforms, where such material has been disseminated to audiences abroad. Once Program Material is published, it remains available in digital format until removed or archived by the Department at its discretion (*see* paragraph (c) of this section). For access to such Program Material, Requesters may visit [www.state.gov/r](http://www.state.gov/r).

(b) As a general matter, Program Material published both electronically and in hard copy will be made available electronically through Department Web sites and/or various third-party platforms, although the Department reserves the right to make Program Material available in hard copy at its sole discretion. To the extent a Requester seeks Program Material that is not made available online through Department Web sites or third-party platforms, such material must be requested under the FOIA pursuant to the procedures outlined at 22 CFR part 171, subpart B.

(c) The Department will remove Program Material from Department and third-party Web sites when it deems such material no longer relevant to the Department’s public diplomacy mission. The Department will also remove Program Material when required by licensing agreements with third-party copyright holders. To the extent a Requester seeks Program Material that has been removed for whatever reason, such material must be requested under the FOIA pursuant to the procedures outlined at 22 CFR part 171, Subpart B.

(d) Once Program Material has been removed from the Department’s Web